

Remarks

In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration of the pending claims. Claims 21 through 32, 34 through 39, and 44 through 49, and newly added claims 59 through 62 are pending in this application, and are the subject of the present examination. Claims 50 through 58 have been cancelled. The Examiner withdrew the previous rejection of claims 21, 23, 25, 26, 28, 29, 31, 32, and 35-38, 35 USC § 112, first paragraph, for not being enabled for an isolated nucleic acid encoding the polypeptide of SEQ IDNO:13. The Examiner also withdrew the previous rejection of claims 21-23, 26, 29, 32, and 36-38, 35 USC § 112, first paragraph, for not being enabled for fragments. Claims 24, 25, 27, 28, 30, 31, 34, 35, 39 and 44 are allowed.

Applicants note that the previously noted discrepancy in the numbering of the claims appeared to have occurred during the international stage, and believe that the claims as they are currently numbered are correct.

Objections to the Claims

Claim 49 is objected because, while specific amino and carboxy termini are set forth, there is no reference to a particular SEQ ID NO. Claim 49 has been amended to refer to specific SEQ ID NO's. This amendment is believed to address the objection; accordingly applicants request that the objection be withdrawn and the claim allowed.

Rejections under 35 U.S.C. § 112

Claims 21 through 23, 26, 29, 32, 36, 37, and 38 stand rejected, and claims 45 through 48 and 50 through 58 are rejected, under 35 USC § 112, first paragraph, for lack of written description for the fragment recited in claims 21 through 23, 36, 37, 45 and 50, as previously set forth; claims 50, 54 and 58 are rejected for recitation of polypeptides that are at least 80% identical to SEQ ID NO:8. While disagreeing with the apparent basis of the first aspect of the rejection (the fragment language), applicants have amended claims 21 through 23, 36, 37, and 45 to recite fragments having specific amino and carboxy termini. Applicants submit that this amendment addresses the concern raised by the Examiner with respect with respect to the fragment language, and respectfully request that these claims be allowed. Moreover, applicants specifically reserve the right to pursue claims to additional fragments, as in a continuing application.

Claims 50 through 58 have been cancelled, and the rejection thereof with respect to the “80%” identity is thus moot. However, applicants respectfully disagree with the basis of the rejection, and submit that the claims do not define a genus of nucleic acids “only by their functional activity” but also include structural language. Such claims, applicants submit, clearly

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define what applicants were in possession of to one of ordinary skill in the art. Nonetheless, in the interest of speedy issuance of the claims that have been allowed, applicants have cancelled these claims. Applicants specifically do not abandon the subject matter of these claims, and reserve the right to pursue them, as in a continuing application.

CONCLUSIONS

Claims 21 through 32, 34 through 39, 44 through 49 and 59 through 62 are now pending in the application and are believed to be in condition for allowance. If the examiner has any questions or concerns about the present claims, she is asked to contact the undersigned at the direct dial number given below, to facilitate prosecution and speed allowance of the claims.

Respectfully submitted,



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